

DIVISION L—HOMELAND SECURITY ACT OF
2002 AMENDMENTS

SEC. 101. GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296) is amended—

(1) in section 308, by striking subsections (a) through (c)(1) and inserting in lieu thereof the following:

“(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall carry out the responsibilities under section 302(4) through both extramural and intramural programs.

“(b) EXTRAMURAL PROGRAMS.—

“(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

“(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate;

“(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 302(14);
and

“(C) distribute funds through grants, cooperative agreements, and contracts.

“(2) UNIVERSITY-BASED CENTERS FOR HOMELAND SECURITY.—

“(A) DESIGNATION.—The Secretary, acting through the Under Secretary for Science and Technology, shall designate a university-based center or several university-based centers for homeland security. The purpose of the center or these centers shall be to establish a coordinated, university-based system to enhance the Nation’s homeland security.

“(B) CRITERIA FOR DESIGNATION.—Criteria for the designation of colleges or universities as a center for homeland security, shall include, but are not limited to, demonstrated expertise in—

“(i) The training of first responders.

“(ii) Responding to incidents involving weapons of mass destruction and biological warfare.

“(iii) Emergency and diagnostic medical services.

“(iv) Chemical, biological, radiological, and nuclear countermeasures or detection.

“(v) Animal and plant health and diagnostics.

“(vi) Food safety.

“(vii) Water and wastewater operations.

“(viii) Port and waterway security.

“(ix) Multi-modal transportation.

“(x) Information security and information engineering.

“(xi) Engineering.

“(xii) Educational outreach and technical assistance.

“(xiii) Border transportation and security.

“(xiv) The public policy implications and public dissemination of homeland security related research and development.

“(C) DISCRETION OF SECRETARY.—To the extent that exercising such discretion is in the interest of homeland security, and with respect to the designation of any given university-based center for homeland security, the Secretary may except certain criteria as specified in section 308(b)(2)(B) and consider additional criteria beyond those specified in section 308(b)(2)(B).

Upon designation of a university-based center for homeland security, the Secretary shall that day publish in the Federal Register the criteria that were excepted or added in the selection process and the justification for the set of criteria that were used for that designation.

“(D) REPORT TO CONGRESS.—The Secretary shall report annually, from the date of enactment, to Congress concerning the implementation of this section. That report shall indicate which center or centers have been designated and how the designation or designations enhance homeland security, as well as report any decisions to revoke or modify such designations.

“(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

“(c) INTRAMURAL PROGRAMS.—

“(1) CONSULTATION.—In carrying out the duties under section 302, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of

the Federal Government, whether operated by a contractor or the Government.”; and

(2) in subsection 835(d) by striking all after the word “security” and inserting in lieu thereof a period.

SEC. 102. NON-PREJUDICIAL REPEAL OF SECTIONS 1714 THROUGH 1717 OF THE HOMELAND SECURITY ACT OF 2002. (a) REPEAL.—In accordance with subsection (c), sections 1714 through 1717 of the Homeland Security Act of 2002 (Public Law 107–296) are repealed.

(b) APPLICATION OF THE PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act (42 U.S.C. 201 et seq.) shall be applied and administered as if the sections repealed by subsection (a) had never been enacted.

(c) RULE OF CONSTRUCTION.—No inference shall be drawn from the enactment of sections 1714 through 1717 of the Homeland Security Act of 2002 (Public Law 107–296), or from this repeal, regarding the law prior to enactment of sections 1714 through 1717 of the Homeland Security Act of 2002 (Public Law 107–296). Further, no inference shall be drawn that subsection (a) or (b) affects any change in that prior law, or that *Leroy v. Secretary of Health and Human Services, Office of Special Master, No. 02–392V* (October 11, 2002), was incorrectly decided.

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Nation's ability to produce and develop new and effective vaccines faces significant challenges, and important steps are needed to revitalize our immunization efforts in order to ensure an adequate supply of vaccines and to encourage the development of new vaccines;

(2) these steps include ensuring that patients who have suffered vaccine-related injuries have the opportunity to seek fair and timely redress, and that vaccine manufacturers, manufacturers of components or ingredients of vaccines, and physicians and other administrators of vaccines have adequate protections;

(3) prompt action is particularly critical given that vaccines are a front line of defense against common childhood and adult diseases, as well as against current and future biological threats; and

(4) not later than 6 months after the date of enactment of this Act, the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives should report a bill ad-

addressing the issues described in paragraphs (1) through (3).

SEC. 103. GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296) is amended—

(1) in subsection 232(f), by striking the period at the end of the sentence and inserting: “: *Provided*, That any such transfer or provision of funding shall be carried out in accordance with section 605 of Public Law 107–77.”;

(2) in subsection 234(b), by striking the period at the end of the sentence and inserting: “: *Provided*, That any such transfer shall be carried out in accordance with section 605 of Public Law 107–77.”;

(3) in subsection 873(b)—

(A) by inserting “Except as authorized by section 2601 of title 10, United States Code, and by section 93 of title 14, United States Code,” before the word “Gifts” in the second place it appears; and

(B) by striking the letter “G” and inserting in lieu thereof “g” in the word “Gifts” in the second place it appears;

(4) in subsection 1511(e)(2), after the word “development” and before the period, by inserting:

“, and to any funds provided to the Coast Guard from the Aquatic Resources Trust Fund of the Highway Trust Fund for boating safety programs”; and

(5) at the end of the Act, by adding the following new section:

“SEC. 1714. Notwithstanding any other provision of this Act, any report, notification, or consultation addressing directly or indirectly the use of appropriated funds and stipulated by this Act to be submitted to, or held with, the Congress or any Congressional committee shall also be submitted to, or held with, the Committees on Appropriations of the Senate and the House of Representatives under the same conditions and with the same restrictions as stipulated by this Act.”.

SEC. 104. INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY. (a) IN GENERAL.—Section 103(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended to read as follows:

“(b) INSPECTOR GENERAL.—There shall be in the Department an Office of Inspector General and an Inspector General at the head of such office, as provided in the Inspector General Act of 1978 (5 App. U.S.C.).”.

(b) SPECIAL PROVISIONS CONCERNING THE INSPECTOR GENERAL.—The Inspector General Act of 1978 (5 App. U.S.C.) is amended—

(1) by striking section 8J;

(2) by redesignating section 8I as section 8J;

and

(3) by inserting after section 8H the following:

“SPECIAL PROVISIONS CONCERNING THE DEPARTMENT
OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of Homeland Security shall be under the authority, direction, and control of the Secretary of Homeland Security with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

“(A) intelligence, counterintelligence, or counterterrorism matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would, in the Secretary’s judgment, constitute a serious threat to the protection of any person or prop-

erty authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described in paragraph (1), the Secretary of Homeland Security may prohibit the Inspector General of the Department of Homeland Security from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in paragraph (1), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

“(3) If the Secretary of Homeland Security exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General of the Department of Homeland Security in writing within seven days-stating the reasons for such exercise. Within 30 days after receipt of any

such notice, the Inspector General shall transmit to the President of the Senate, the Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress the following:

“(A) A copy of such notice.

“(B) A written response to such notice that includes a statement regarding whether the Inspector General agrees or disagrees with such exercise, and the reasons for any disagreement.

“(b) The exercise of authority by the Secretary described in paragraph (2) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

“(c) Subject to the conditions established in subsections (a) and (b) above, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security may initiate, conduct, and supervise such audits and investigations in the Department of Homeland Security as the Inspector General considers appropriate.

“(d) Any report required to be transmitted by the Secretary of Homeland Security to the appropriate committees or subcommittees of Congress under section 5(d) shall be transmitted, within the seven-day period specified under such section, to the President of the Senate, the

Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress.

“(e) Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service, the Office of Inspections of the United States Secret Service, the Bureau of Border Security, and the Bureau of Citizenship and Immigration Services. The head of each such office or bureau shall promptly report to the Inspector General the significant activities being carried out by such office or bureau.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 811 of the Homeland Security Act of 2002 (Public Law 107–296) is repealed.

(2) Section 8D of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in subsection (b)(1)—

(i) in the first sentence, by striking “, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service,”; and

(ii) in the second sentence, by striking “each”;

(B) in subsection (c), by striking “bureaus and services” and inserting “bureau”; and

(C) in subsection (d)—

(i) by striking “a bureau or service” and inserting “the bureau”; and

(ii) by striking “or service” after “such bureau”.

SEC. 105. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW. (a) The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(1) in subsection 1102(2), by inserting new paragraphs (A) and (B) as follows, and by redesignating current paragraphs (A) and (B) as paragraphs “(C)” and “(D)” respectively—

“(A) by striking ‘Attorney General’ in the title and inserting in lieu thereof ‘Secretary of Homeland Security’;

“(B) by striking ‘The Attorney General’ in subsection (a)(1) and inserting in lieu thereof ‘The Secretary of Homeland Security’;” and

(2) by adding, at the end of title XI, subtitle A, a new section as follows—

“SEC. 1104. EFFECTIVE DATE.

“The provisions of this subtitle shall take effect on the date of the transfer of functions from the Commissioner of Immigration and Naturalization to officials of the Department of Homeland Security.”.

SEC. 106. SAVINGS PROVISION OF CERTAIN TRANSFERS MADE UNDER THE HOMELAND SECURITY ACT OF 2002. The transfer of functions under subtitle B of title XI of the Homeland Security Act of 2002 (Public Law 107-296) shall not affect any pending or completed administrative actions, including orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, or registrations, in effect on the date immediately prior to the date of such transfer, or any proceeding, unless and until amended, modified, superseded, terminated, set aside, or revoked. Pending civil actions shall not be affected by such transfer of functions.

SEC. 107. RESTORATION OF PROVISION REGARDING FEES TO COVER THE FULL COSTS OF ALL ADJUDICATION SERVICES. The Homeland Security Act of 2002 (Public Law 107-296) is amended by striking section 457, including the amendment made by such section: *Provided*, That no court shall have jurisdiction over any cause or claim arising under the provisions of section 457 of the

Homeland Security Act of 2002 (Public Law 107-296),
this section, or any regulations promulgated thereunder.

This division may be cited as the “Homeland Security
Act Amendments of 2003”.